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Legislative Notice

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S. 1882 – Higher Education Act of 1998

Calendar No. 354

Reported by the Senate Labor and Human Resources Committee on May 4, 1998, with an amendment in the nature of a substitute, by a 18-0 vote. S. Rept. 105-181, additional views filed.

NOTEWORTHY

- On June 25, the Senate agreed, by unanimous consent, to consider H.R. 6, the House's Higher Education Act, with the inserted text of S. 1882. Each side is allowed seven relevant first degree amendments. Relevant second degree amendments are also in order. Following disposition of the amendments, the committee substitute will be accepted and a vote on final passage will occur.
- S. 1882, the five-year higher education reauthorization, contains the same loan rates as the temporary loan rates contained in H.R. 2400, the ISTEA (transportation) bill recently signed into law. This represents the Committee's intention to maintain the fine line between the lowest possible rate for students and rates necessary for an uninterrupted flow of private loan capital.
 - For students, student loan rates will be equal to the 91-day Treasury-bill-plus-1.7-percent while in school, and plus-2.3-percent during repayment after graduation. The interest amount is capped at 8.25 percent.
 - For PLUS loans, rates will be the 91-day-T-bill-plus-3.1 percent, capped at 9 percent for borrowers and lenders.
- The bill has no caps on the percentage of loans distributed under either the Direct Loan Program or the Federal Family Education Loan Program (FFEL). The Committee supports the continuation of both loan programs.
- The bill authorizes \$108 billion for fiscal years 1997-2003, assuming that the legislation would be enacted by June 1, 1998, and assuming adjustments for inflation. CBO estimates a reduction in direct student loan spending by \$235 million in 1998 but increasing by about \$3.8 billion over the 1999-2003 period. According to Committee staff, provisions in the managers' amendment will bring the bill into balance.
- The House passed H.R. 6, its version of higher education reauthorization, on May 6, 1998 by a vote of 414-4 (vote no. 135). H.R. 6 sets the same student loan repayment interest rate as S. 1882 but authorizes a maximum Pell Grant of \$5,300 in 2003 — \$500 less than S. 1882.

BILL PROVISIONS

Title I: General Provisions

- Under current law, general provisions are found in Title XII, but S. 1882 transfers them to Title I.

Title II: Improving Teacher Quality

- The teacher education provisions from the current Title V are moved to Title II. All unfunded programs are repealed and replaced with a comprehensive program in part A.

Part A — Teacher Quality

- The purpose of part A is to improve student achievement, to improve the quality of the current and future teaching force by improving the preparation of prospective teachers and enhancing professional development activities. The proposal provides a "top-down" and "bottom-up" approach for improving teacher quality.
- Authorizes \$300 million for fiscal year 1999 and such sums as necessary in the four succeeding years.

Part B — Recruitment of Teachers for Underserved Areas

- The purpose of Part B is to increase the number of students, especially minority students, who complete high-quality teacher preparation programs. The part B provisions replace the Minority Teacher Recruitment provision formerly authorized in Title V of the Higher Education Act.
- Authorizes \$37 million for fiscal year 1999 and such sums as necessary in the four succeeding years.

Title III: Institutional Aid

Strengthening Institutions

- Allows institutions to use up to 20 percent of their awards to establish or expand an endowment fund.
- Requires a two-year wait-out period between the receipt of consecutive grants.

- Authorizes \$135 million for fiscal year 1999 and such sums as may be necessary for each of the four succeeding years.
- Establishes a new grant program for Tribal Colleges and Universities to strengthen services to native American students. Authorizes \$5 million in fiscal year 1999 and such sums as may be necessary for each of the four succeeding years.

Historically Black Colleges and Universities

- Allows institutions to use up to 20 percent of their awards to establish or expand an endowment fund under the terms and conditions of Part C.
- Authorizes \$135 million for fiscal year 1999 and such sums as may be necessary for each of the four succeeding years.
- Clarifies that eligible graduate and professional institutions must match only those funds received in excess of \$500,000.
- Provides eligible graduate and professional institutions the flexibility to spend section 326 funds on any qualified graduate program.
- Authorizes \$30 million for fiscal year 1999 and such sums as may be necessary for each of the four succeeding years.

Historically Black College and University Capital Financing

- Authorizes \$110,000 for fiscal year 1999 and such sums as may be necessary for each of the four succeeding fiscal years.
- The Historically Black College and University Capital Financing program is moved from the current Title VII, Part B to Title III.

Minority Science and Engineering Improvement Programs

- Expands the definition of science to include behavioral sciences.
- The Minority Science and Engineering Improvement Program is moved from the current Title X, part B to Title III.
- Authorizes \$10 million for fiscal year 1999 and such sums as may be necessary for each of the four succeeding years.

Title IV: Student Assistance

Performance-Based Organization

- Establishes a performance-based organization within the Department of Education for the purpose of reducing the cost and improving the delivery of student financial aid under this title. The Secretary of Education will be required to hire a chief operating officer with demonstrated experience in management and information technology or financial services.
- The chief operating officer will be provided with personnel and procurement flexibility in order to allow for the establishment and operation of an organization rewarded for meeting specified contractual goals for the management and delivery of student financial aid. Personnel will be rewarded in accordance with their ability to meet objective performance measures.

Pell Grants

- The Pell Grant program was created to ensure that students, regardless of income level, are able to pursue post secondary education at the school of their choice. Forty-seven percent of students receiving these grants have incomes below \$9,000.
- Changes the name of the program from Basic Education Opportunities Grants to the Federal Pell Grant program.
- Allows for the Department, after allowing for a formal comment period, to institute an accurate and timely payment process replacing the mandatory 85 percent advance funding to institutions.
- Increases the maximum Pell Grant levels to the following amounts:
 - \$5,000 for academic year 1999-2000
 - \$5,200 for academic year 2000-2001
 - \$5,400 for academic year 2001-2002
 - \$5,600 for academic year 2002-2003 and
 - \$5,800 for academic year 2003-2004.
- Increases allowances for dependent child care expenses by making provision in this section consistent with the related provisions in Need Analysis.
- Requires the Secretary to issue regulations to enable a student to receive two Pell grants during a single year. It is the hope of the Committee that by allowing for two grants in a school year, students will be more likely to attend summer school and graduate earlier.
- Places a time limit on the period during which students may receive a Federal Pell Grant equal to 150 percent of the period normally required to complete a course of study, unless the institution extends that period as an accommodation to a disabled student.

- Tightens Pell Grant eligibility for English as a Second Language "stand alone" programs to only those that require an independent proficiency test upon completion and for programs that have a minimum passing score percentage, as designated by the Secretary.

Early Outreach, Federal TRIO Programs

- The Federal TRIO program provides early intervention assistance so that students are more likely to pursue post secondary education. The 1,900 current TRIO programs provide benefits to 700,000 students nationwide. Two-thirds of participating students come from families where neither parent attended college and whose incomes are below \$24,000.
- Reserves up to 2 percent of TRIO funds for Evaluation and Dissemination/Partnership grants. The new Dissemination/Partnership provision would encourage partnerships between TRIO programs and other community based organizations offering programs or activities serving at-risk students.
- Authorizes \$700 million in fiscal year 1999 and such sums as may be necessary for each of the four succeeding years.

National Early Intervention Scholarship and Partnership Program

- First authorized in 1992, the program is currently utilized by nine states.
- Reauthorizes the program with no changes.
- Authorizes \$200 million for fiscal year 1999 and such sums as may be necessary for the four succeeding fiscal years.

Federal Supplemental Education Opportunity Grants (SEOG)

- The SEOG provides need-based grant aid to students preparing for post secondary education.
- Replaces current requirement that 5 percent of an institution's SEOG allotment be awarded to less-than-full-time or independent students if their financial need exceeds 5 percent of institution's total need with a requirement that a reasonable proportion of the allocation be awarded to such students.
- Provides institutions with the authority to carry-back and carry-forward 10 percent of the institution's SEOG funds. Requires funds not awarded in a fiscal year or carried forward or back to be returned to the Secretary for reallocation.
- Authorizes \$700 million for fiscal year 1999 and such sums as may be necessary for each of the four succeeding years.

Leveraging Educational Assistance Partnership Program

- Incorporates, with modifications, a proposal (S. 1644, the Leveraging Educational Assistance Partnership Act) introduced by Senators Reed and Collins which authorizes reserve funds in excess of \$35 million to be used for a special partnership grant program that requires additional State matching and authorizes additional activities.
- Authorizes \$105 million for fiscal year 1999 and such sums as may be necessary for the four succeeding years.

Programs for Students of Migrant Farmworkers

- Reauthorizes the current programs with no changes.
- Authorizes the High School Equivalency Program (HEP) and the College Assistance Migrant Program (CAMP) at \$25 million and \$10 million, respectively, in fiscal year 1999 and such sums as may be necessary for each of the four succeeding years.

Robert C. Byrd Honors Scholarship Program

- This program makes grant aid available to students who demonstrate outstanding academic achievement and show promise of continued academic achievement.
- Reauthorizes the program with no changes.
- Authorizes \$45 million in fiscal year 1999 and such sums as may be necessary for each of the four succeeding years.

Child Care Access Means Parents in School (CAMPUS)

- This program allows low-income parents in post secondary education campus-based child care.
- Incorporates, with modifications, a proposal (S. 1151) introduced by Senators Dodd and Snowe which authorizes the Secretary to award grants of not less than \$10,000 for a 3-year period to institutions of higher education with Pell Grant awards in the preceding fiscal year that equal or exceed \$350,000 to support or establish campus-based child care for Pell Grant eligible, low-income students enrolled at the institution.
- Authorizes \$60 million in fiscal year 1999 and such sums as may be necessary in each of the four succeeding fiscal years.

Federal Family Education Loan Program (FFEL)

- Creates a new Agency Operating Fund. All monies within this fund are to conduct student financial aid related activities, including but not limited to, application processing, loan

disbursement, enrollment and repayment status management, default prevention activities, default collection activities and school and lender training.

- Effective July 1, 1998, the student loan interest rate will be equivalent to the 91-day T-bill plus 1.7 percent while the student is in school. After graduation, the rate will be the 91-day T-bill plus 2.3 percent, with a cap of 8.25 percent.
- S. 1882 contains the same loan rates as the temporary loan rates contained in H.R. 2400, the ISTEA (transportation) bill recently signed into law. The interest rate paid by borrowers under the Federal PLUS Loan Program will be set at the current rate of the 91-day T-bill plus 3.1 percent with an annual cap of 9 percent.
 - Student loan rates will be equal to the 91-day Treasury-bill-plus-1.7-percent while students are in school, and plus-2.3-percent during repayment after graduation. The interest amount is capped at 8.25 percent.
 - For loan providers, rates will be the 91-day-T-bill-plus-2.2 percent during the in-school period and plus-2.8-percent during repayment.
 - For PLUS loans, rates will be the 91-day-T-bill-plus-3.1 percent, capped at 9 percent for borrowers and lenders.
 - Before the extension provided in the ISTEA bill, rates were based on the 91-day-T-bill-plus-2.5-percent while in school and plus-3.1-percent during repayment. The rate was capped at 8.25 percent.
- Requires all non-state designated guarantors to have the capacity to respond to electronic inquiries.
- Recalls to the United States Treasury \$200 million in reserve funds. The funds will be deposited in five equal \$40 million installments from fiscal year 1999 through 2003.
- Creates a new **Federal Student Loan Reserve Fund**. All monies within this fund are for payment of lender claims and payment of default prevention fees.
- Reduces paperwork burden on students, schools and lenders.
- Allows first time borrowers with loan balances over \$30,000 the option of extended or graduated repayment.
- Exempts small lenders with less than \$5 million in loans from annual audit requirements.
- Encourages greater loan default aversion by reducing reinsurance amounts from 98 percent to 95 percent. In any year in which the guaranty agency has a default rate exceeding five or nine percent, the reinsurance payment shall be reduced from 88 to 85 percent and 78 to 75 percent respectively.
- Allows students to make electronic requests for forbearance.

- Allows lenders to provide an initial 60-day forbearance period for requests that require additional research. Interest may not be capitalized.
- Reduces the guaranty agency collection retention allowance from 27 percent to 24 percent.
- Reduces the current minimum reserve level from .5 percent to .25 percent consistent with the recall of reserves authorized under section 421 of the bill. Reduces from 80 percent to 78 percent the Federal reimbursement payments made for guaranty agencies failing to maintain the minimum reserve level for two consecutive years.
- Replaces the current administrative cost allowance with a loan processing and issuance fee equal to .65 percent of the total amount of FFEL loans issued by each guaranty agency.
- Replaces current preclaims and supplemental preclaims assistance with a new default aversion program. Guaranty agencies will be reimbursed only for those accounts which are brought current.
- Creates a new **Voluntary Flexible Agreements** section that authorizes the Secretary to enter into voluntary flexible agreements with six guaranty agencies in lieu of their agreements under section 428(b) and (c) during fiscal years 1999 through 2001. Requires a study to be provided annually to Congress.
- Directs the Secretary of Treasury to conduct a study, in consultation with institutions of higher education, lenders, students, and other participants in the student loan programs, of the impact and feasibility of using market-based mechanisms to establish interest rates on student loans.
- Provides loan forgiveness of 30 percent for teachers after the fourth and fifth complete years of teaching in a high-poverty school and 40 percent after the sixth complete year. The amount of forgiveness is capped at \$10,000 per borrower. To be eligible, elementary school teachers must demonstrate through certification or licensure requirements knowledge and teaching skills in reading, writing, mathematics and other areas of the elementary school curriculum. In addition, secondary school teachers must be certified as teaching in a subject area that is relevant to the borrower's academic major.
- Incorporates, with modifications, a proposal (S. 1029, the Quality Child Care Loan Forgiveness Act) introduced by Senators DeWine and Wellstone to establish a demonstration program of loan forgiveness for child care providers, authorized at \$10 million in fiscal year 1999 and such sums as may be necessary in each of the succeeding four years. The provision allows for 20 percent loan forgiveness after the second and third year of service for full-time child care workers and 30 percent after the fourth and fifth years of service. Eligible participants must earn less than the poverty level for a family of two.

Federal Work Study Programs

- Replaces the requirement that 5 percent of an institution's work study allotment be awarded to less-than-full-time or independent students (if their financial need exceeds 5 percent of the institution's total need) with a requirement that a reasonable proportion of the allocation be awarded to such students.
- Deletes the requirement that work study institutional employment be available to all students desiring such employment.
- Authorizes for the Federal Work Study Program \$900 million in fiscal year 1999 and such sums as may be necessary for each of the four succeeding fiscal years.
- Authorizes for Work Colleges \$7 million for fiscal year 1999 and such sums as may be necessary in the four succeeding fiscal years.

William D. Ford Federal Direct Loan Program

- Created in 1993, this program serves over 2.7 million students in nearly 1,300 schools.
- Effective July 1, 1998, the student loan interest rate will be equivalent to the 91-day T-bill plus 1.7 percent while the student is in school. After graduation, the rate will be the 91-day T-bill plus 2.3 percent, with a cap of 8.25 percent.
- The interest rate paid by borrowers under the Federal PLUS Loan Program will be set at the current rate of the 91-day T-bill plus 3.1 percent with an annual cap of 9 percent.

Federal Perkins Loans

- This program had a \$1.058 billion average loan volume serving 788,000 students. Administered by individual institutions, the Perkins Loan program bridges the gap between a student's true need and the aid provided by other need-based programs, like FFEL or the Direct Loans.
- Strengthens the default penalties by prohibiting participation for institutions with cohort default rates of 50 percent or greater for three years in a row.
- Replaces the requirement that 5 percent of an institution's Perkins allotment be awarded to less-than-full-time or independent students if their financial need exceeds 5 percent of the institution's total need with a requirement that a reasonable proportion of the allocation be awarded to such students.
- Eliminates the requirement that institutions establish a default management plan if their default rates are above 15 percent.

- Total annual loan amounts shall not exceed:
 - \$4,000 for undergraduate students;
 - \$6,000 in the case of graduate or professional students;
 - \$8,000 for each of the third and fourth years for any student who states in writing that he or she will pursue a degree in pursuit of becoming an elementary or secondary teacher in a high-poverty area; and
 - \$10,000 for the first year of graduate study in pursuit of advanced teacher training for those committed to teaching in high-poverty areas.
- Total loan amounts shall not exceed:
 - \$40,000 for any graduate or professional student;
 - \$20,000 for students who have successfully completed two years of a program leading to a bachelor's degree; and
 - \$8,000 in the case of any other student.
- Authorizes \$250 million for fiscal year 1999 and such sums as may be necessary for the four succeeding fiscal years.

General Provisions

- Suspends eligibility from Title IV grant, loan, and work programs for students convicted of any Federal or State law related to possession or sales of controlled substances.
- Revises and expands the list of crimes that must be included in campus crime statistics to include arson and hate crimes. Also requires a national study to examine procedures undertaken after an institution of higher education receives a report of sexual assault. Authorizes \$1 million for fiscal year 1999 to carry out the national study.
- Adopts a number of recommendations made by the National Commission on the Cost of Higher Education, including the establishment of a framework for providing useful cost information to ensure accountability to students and their families.
- Establishes a demonstration program to accommodate the expansion of distance education opportunities while providing safeguards against abuse of student aid programs.

Title V: Graduate and Post Secondary Education Improvement

Jacob K. Javits Fellowship Program

- The program is designed to attract students of superior ability to pursue graduate work.
- Increases the authorization of institutional payments to \$10,000 in fiscal year 1999-2000 and adjusts it for inflation each year thereafter.
- Authorizes \$30 million in fiscal year 1999 and such sums as may be necessary for each of the four succeeding years.

Graduate Assistance in Areas of National Need

- Increases the authorization of institutional payments to \$10,000 in fiscal year 1999-2000 and adjusts it for inflation each year thereafter.
- Authorizes \$30 million in fiscal year 1999 and such sums as may be necessary for each of the four succeeding years.

Urban Community Service

- Funding priority is given to applicants which have shown prior commitment to urban community service.
- Authorizes \$20 million in fiscal year 1999 and such sums as may be necessary for each of the four succeeding years.

Fund for the Improvement of Post Secondary Education (FIPSE)

- Authorizes \$26 million for "general" FIPSE, \$1 million for "planning grants" and \$5 million for "special projects" in fiscal year 1999 and "such sums" in the four succeeding years.

Improving Access to Higher Education for Students with Disabilities

- According to the Senate Labor Committee's bill summary, this part establishes a new competitive grant program to provide assistance for the development of model programs to provide technical assistance or training and professional development to faculty to improve the teaching of students with disabilities.
- Grants would be awarded for a period of three years.
- Authorizes \$10 million in fiscal year 1999 and such sums as may be necessary in each of the four succeeding years.

Hispanic-Serving Institutions

- Authorizes \$45 million for fiscal year 1999 and such sums as may be necessary for each of the four succeeding years.

Title VI: International Education

Institute for International Public Policy

- Increases the required match by Minority Foreign Service Professional Development Program grant recipients from one-fourth to one-half, with the non-federal contribution being made by the private sector.

- Expands the current Junior Year Abroad program. The program is renamed "Study Abroad" and provides for both Junior year abroad and summer abroad programs, with one-third of the cost borne by the institution and two-thirds by the Institute. Students completing their third year of study would be eligible to participate in the summer abroad program.
- Authorizes \$10 million in fiscal year 1999 and "such sums" in the succeeding four years.

Title VII: Related Programs and Amendments to Other Laws

Indian Higher Education Programs

- Increases the per-Indian-student authorization to \$6,000.

Advanced Placement Incentive Program

- **Advanced Placement Fee Payment Program** is moved from Title XV, Part G, of the Higher Education Amendments of 1992 to Title VII and is renamed the Advanced Placement Incentive Program.
- Modifies program to encourage States to support advanced placement teacher training and related activities designed to increase the participation of low-income individuals and to permit up to 5 percent of funds to disseminate information about the availability of test fee payments.
- Authorizes \$10 million in fiscal year 1999 and such sums as may be necessary for each of the four succeeding years.

Amendments to United States Institute of Peace Act

- Makes technical changes and reauthorizes \$15 million in fiscal year 1999 and such sums as may be necessary for each of the four succeeding years.

Community Scholarship Mobilization

- Creates a competitive grant program which allows grant recipients, using the interest from an endowment grant, to establish and support state or regional program centers that promote higher education goals for students from low income families by providing academic support and scholarship assistance.
- Seventy-percent of interest income would support the establishment or ongoing work of state or regional program centers to enable such centers to work with local communities to establish local affiliated chapters in high poverty areas and provide ongoing assistance, training workshops, and other activities to ensure the success of local chapters.

- Thirty-percent of the interest income would be used to provide scholarships for students from low income families, and scholarships would be matched 1:1 from funds raised by the local community.
- Authorizes \$10 million for fiscal year 2000 to carry out the purposes of this part.

Incarcerated Youth Offenders

- Incarcerated Youth Offenders program is moved from the current Title X, Part E.
- Authorizes \$14 million in fiscal year 1999 such sums as may be necessary for each of the four succeeding years.

Amendments to Education of the Deaf Act

- Extends authorization of appropriations to such sums as may be necessary for fiscal year 1998 and each of the four succeeding fiscal years.
- Requires that, in any school year, no qualified U.S. citizen, who elects to enroll in Gallaudet University or the National Technical Institute for the Deaf, is denied admission because of the admission of an international student.

COST

Assuming that the legislation would be enacted by June 1, 1998, authorizations under S. 1882 total \$108 billion for fiscal years 1997-2003, assuming adjustments for inflation. Without adjustments for inflation, authorizations total \$106 billion.

The numerous changes in the student loan programs are estimated by the Congressional Budget Office to reduce direct spending by \$235 million in 1998 but increase spending by about \$3.8 billion over the 1999-2003 period.

According to the Senate Labor Committee Report [105-181], S. 1882 "contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act." The bill "imposes no costs on state, local or tribal governments except as a condition of receiving federal assistance."

ADMINISTRATION POSITION

According to a *Statement of Administration Policy* released on June 16, 1998, "the Administration strongly opposes enactment of S. 1882 in its current form because it contains several highly problematic provisions. These include excessive subsidies to lenders and guaranty agencies in the student loan program and inadequate funding for student aid management in the section 458 account. The Administration understands, however, that the inadequate funding will be resolved in the managers' amendment to S. 1882."

POSSIBLE AMENDMENTS

A managers' amendment will be offered which will bring mandatory spending into balance over the 10-year period required under the Budget Act and which produces \$590 million in savings in fiscal year 1998. Among the modifications made to achieve balance are the sunseting of the interest rate change on June 30, 2003; the adjustment of payments to guaranty agencies; and the modification of teacher loan forgiveness provisions to reduce program costs.

Republican Amendments:

Coats — Higher education relevant
Hutchison — Secondary markets in FFEL
Jeffords (2) — Higher education relevant
Santorum — Default prevention/Proprietary School Liaison
Sessions — Tax treatment of public and private pre-paid tuition plans
Specter — Campus security

Democrat Amendments:

Bingaman — Teacher training
Feinstein — Pell Grant eligibility for teacher certification
Graham — Need analysis treatment of GI Bill benefits
Harkin — Student loan fees
Kennedy — Pilot program for market-based interest rate
Wellstone — Treatment of post secondary education for welfare recipients
Wellstone — Higher education relevant

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